

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**VICTORINO CRUZ SAMSON**  
**a.k.a. VICTOR SAMSON**  
**103 Rosewell Way**  
**San Jose, CA 95138**

**Registered Nurse License No. 671177**

Respondent

Case No. 2013-89

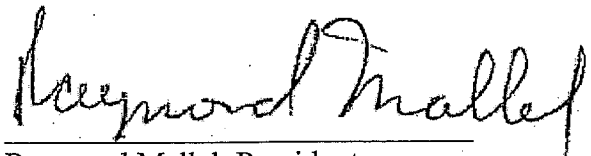
OAH No. 2012100357

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **May 15, 2013.**

IT IS SO ORDERED **April 15, 2013.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JONATHAN D. COOPER  
Deputy Attorney General  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-89

13 **VICTORINO CRUZ SAMSON**  
14 **aka Victor Samson**  
103 Rosewell Way  
San Jose, CA 95138

OAH No. 2012100357

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Registered Nurse License No. 671177**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
21 Registered Nursing. She brought this action solely in her official capacity and is represented in  
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Jonathan D.  
23 Cooper, Deputy Attorney General.

24 2. Respondent Victorino Cruz Samson, aka Victor Samson (Respondent) is represented  
25 in this proceeding by attorney Paul Chan, whose address is: 2311 Capitol Avenue, Sacramento,  
26 CA, 95816.

27 3. On or about December 27, 2005, the Board of Registered Nursing issued Registered  
28 Nurse License Number 671177 to Victorino Cruz Samson, aka Victor Samson (Respondent). The

1 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
2 herein and will expire on November 30, 2013, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 2013-89 was filed before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
6 and all other statutorily required documents were properly served on Respondent on August 7,  
7 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2013-89 is attached as exhibit A and incorporated herein  
9 by reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation No. 2013-89. Respondent has also carefully read, fully  
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
19 the attendance of witnesses and the production of documents; the right to reconsideration and  
20 court review of an adverse decision; and all other rights accorded by the California  
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 **CULPABILITY**

25 9. Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. 2013-89.

27 10. Respondent agrees that his Registered Nurse License is subject to discipline and he  
28 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

**CONTINGENCY**

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Registered Nurse License No. 671177, issued to Respondent Victorino Cruz Samson, aka Victor Samson (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1       **Severability Clause.** Each condition of probation contained herein is a separate and  
2 distinct condition. If any condition of this Order, or any application thereof, is declared  
3 **unenforceable** in whole, in part, or to any extent, the remainder of this Order, and all other  
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
5 and enforceable to the fullest extent permitted by law.

6       1.   **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and  
7 detailed account of any and all violations of law shall be reported by Respondent to the Board in  
8 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
9 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within  
10 45 days of the effective date of the decision, unless previously submitted as part of the licensure  
11 application process.

12       **Criminal Court Orders:** If Respondent is under criminal court orders, including  
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15       2.   **Comply with the Board's Probation Program.** Respondent shall fully comply with  
16 the conditions of the Probation Program established by the Board and cooperate with  
17 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
18 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
19 more than 15 days of any address change and shall at all times maintain an active, current license  
20 status with the Board, including during any period of suspension.

21       Upon successful completion of probation, Respondent's license shall be fully restored.

22       3.   **Report in Person.** Respondent, during the period of probation, shall appear in  
23 person at interviews/meetings as directed by the Board or its designated representatives.

24       4.   **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
25 practice as a registered nurse outside of California shall not apply toward a reduction of this  
26 probation time period. Respondent's probation is tolled, if and when he resides outside of  
27 California. Respondent must provide written notice to the Board within 15 days of any change of  
28 residency or practice outside the state, and within 30 days prior to re-establishing residency or

1 returning to practice in this state.

2 Respondent shall provide a list of all states and territories where he has ever been licensed  
3 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
4 information regarding the status of each license and any changes in such license status during the  
5 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
6 license during the term of probation.

7 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit  
8 or cause to be submitted such written reports/declarations and verification of actions under  
9 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
10 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
11 Respondent shall immediately execute all release of information forms as may be required by the  
12 Board or its representatives.

13 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
14 state and territory in which he has a registered nurse license.

15 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall  
16 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
17 6 consecutive months or as determined by the Board.

18 For purposes of compliance with the section, "engage in the practice of registered nursing"  
19 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
20 non-direct patient care position that requires licensure as a registered nurse.

21 The Board may require that advanced practice nurses engage in advanced practice nursing  
22 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

23 If Respondent has not complied with this condition during the probationary term, and  
24 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
25 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
26 extension of Respondent's probation period up to one year without further hearing in order to  
27 comply with this condition. During the one year extension, all original conditions of probation  
28 shall apply.

1           **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
2 prior approval from the Board before commencing or continuing any employment, paid or  
3 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
4 performance evaluations and other employment related reports as a registered nurse upon request  
5 of the Board.

6           Respondent shall provide a copy of this Decision to his employer and immediate  
7 supervisors prior to commencement of any nursing or other health care related employment.

8           In addition to the above, Respondent shall notify the Board in writing within seventy-two  
9 (72) hours after he obtains any nursing or other health care related employment. Respondent  
10 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
11 regardless of cause, from any nursing, or other health care related employment with a full  
12 explanation of the circumstances surrounding the termination or separation.

13           **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
14 Respondent's level of supervision and/or collaboration before commencing or continuing any  
15 employment as a registered nurse, or education and training that includes patient care.

16           Respondent shall practice only under the direct supervision of a registered nurse in good  
17 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
18 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
19 approved.

20           Respondent's level of supervision and/or collaboration may include, but is not limited to the  
21 following:

22           (a) Maximum - The individual providing supervision and/or collaboration is present in  
23 the patient care area or in any other work setting at all times.

24           (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
25 care unit or in any other work setting at least half the hours Respondent works.

26           (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
27 person communication with Respondent at least twice during each shift worked.

28           (d) Home Health Care - If Respondent is approved to work in the home health care

1 setting, the individual providing supervision and/or collaboration shall have person-to-person  
2 communication with Respondent as required by the Board each work day. Respondent shall  
3 maintain telephone or other telecommunication contact with the individual providing supervision  
4 and/or collaboration as required by the Board during each work day. The individual providing  
5 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
6 patients' homes visited by Respondent with or without Respondent present.

7       **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
8 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
9 or for an in-house nursing pool.

10       Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
11 registered nursing supervision and other protections for home visits have been approved by the  
12 Board. Respondent shall not work in any other registered nursing occupation where home visits  
13 are required.

14       Respondent shall not work in any health care setting as a supervisor of registered nurses.  
15 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
16 and/or unlicensed assistive personnel on a case-by-case basis.

17       Respondent shall not work as a faculty member in an approved school of nursing or as an  
18 instructor in a Board approved continuing education program.

19       Respondent shall work only on a regularly assigned, identified and predetermined  
20 worksite(s) and shall not work in a float capacity.

21       If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
22 request documentation to determine whether there should be restrictions on the hours of work.

23       **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and  
24 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
25 months prior to the end of his probationary term.

26       Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
27 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
28 above required course(s). The Board shall return the original documents to Respondent after



1 photocopying them for its records.

2       11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its  
3 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
4 amount of \$4,291.28. Respondent shall be permitted to pay these costs in a payment plan  
5 approved by the Board, with payments to be completed no later than three months prior to the end  
6 of the probation term.

7       If Respondent has not complied with this condition during the probationary term, and  
8 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
9 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
10 extension of Respondent's probation period up to one year without further hearing in order to  
11 comply with this condition. During the one-year extension, all original conditions of probation  
12 will apply.

13       12. **Violation of Probation.** If Respondent violates the conditions of his probation, the  
14 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
15 and impose the stayed discipline (revocation/suspension) of Respondent's license.

16       If during the period of probation, an accusation or petition to revoke probation has been  
17 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
18 an accusation or petition to revoke probation against Respondent's license, the probationary  
19 period shall automatically be extended and shall not expire until the accusation or petition has  
20 been acted upon by the Board.

21       13. **License Surrender.** During Respondent's term of probation, if he ceases practicing  
22 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
23 Respondent may surrender his license to the Board. The Board reserves the right to evaluate  
24 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
25 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
26 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
27 subject to the conditions of probation.

28       Surrender of Respondent's license shall be considered a disciplinary action and shall

1 become a part of Respondent's license history with the Board. A registered nurse whose license  
2 has been surrendered may petition the Board for reinstatement no sooner than the following  
3 minimum periods from the effective date of the disciplinary decision:

4 (1) Two years for reinstatement of a license that was surrendered for any reason other  
5 than a mental or physical illness; or

6 (2) One year for a license surrendered for a mental or physical illness.

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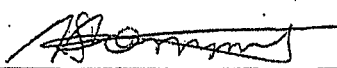
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13 ///

14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
16 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have  
17 on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order  
18 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
19 Board of Registered Nursing.

20 DATED: 2-2-13

  
VICTORINO SAMSON  
Respondent

21  
22 I have read and fully discussed with Respondent Victorino Samson the terms and  
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
24 I approve its form and content.

25 DATED: 2-9-13

  
Paul Chan  
Attorney for Respondent

27 ENDORSEMENT

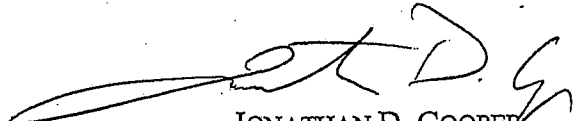
28 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

1 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
2 Affairs.

3 Dated: 2/22/13

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

7  
8   
9 JONATHAN D. COOPER  
Deputy Attorney General  
Attorneys for Complainant

## **Exhibit A**

**Accusation No. 2013-89**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
JONATHAN D. COOPER  
3 Deputy Attorney General  
State Bar No. 141461  
4 455 Golden Gate Avenue, Suite 11000  
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6 *Attorneys for Complainant*

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2013-89**

11 **VICTORINO CRUZ SAMSON**  
12 **aka Victor Samson**  
103 Rosewell Way  
13 San Jose, CA 95138

**A C C U S A T I O N**

14 **Registered Nurse License No. 671177**

Respondent.

15  
16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about December 27, 2005, the Board of Registered Nursing issued Registered  
23 Nurse License Number 671177 to Victorino Cruz Samson, aka Victor Samson (Respondent). The  
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on November 30, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section **2750** of the Business and Professions Code (Code) provides, in pertinent part,  
3 that the Board may discipline any licensee, including a licensee holding a temporary or an  
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
5 Nursing Practice Act.

6 5. Section **2764** of the Code provides, in pertinent part, that the expiration of a license  
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
8 licensee or to render a decision imposing discipline on the license.

9 **STATUTORY AND REGULATORY PROVISIONS**

10 6. Section **2761** of the Code states, in pertinent part:

11 The board may take disciplinary action against a certified or licensed nurse or deny an  
12 application for a certificate or license for any of the following:

13 (a) Unprofessional conduct, which includes, but is not limited to, the following:

14 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
15 functions.

16 ...  
17 7. California Code of Regulations, title 16, section **1442**, states:

18 As used in Section 2761 of the code, "gross negligence" includes an extreme departure from  
19 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
20 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
21 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
22 situation which the nurse knew, or should have known, could have jeopardized the client's health  
23 or life.

24 8. California Code of Regulations, title 16, section **1443**, states:

25 As used in Section 2761 of the code, "incompetence" means the lack of possession of or the  
26 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
27 exercised by a competent registered nurse as described in Section 1443.5.

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1 **FACTUAL SUMMARY**

2 11. On or about June 29, 2008, Respondent was employed as a nurse at Kaiser  
3 ~~Permanente Santa Clara Medical Center in San Jose, California.~~ Respondent was assigned to  
4 provide nursing care to Patient 1.<sup>1</sup>

5 12. Respondent administered a transfusion of blood to Patient 1 despite the fact that no  
6 physician had ordered that a transfusion be administered.

7 13. Before administering the blood transfusion to Patient 1, Respondent failed to take  
8 adequate measures to verify that a physician's order existed for the transfusion. Despite the fact  
9 that no such order existed, Respondent signed his name in three locations in Patient 1's medical  
10 record, thereby falsely stating that Respondent had verified that such an order existed.  
11 Respondent failed to chart any infusion rate for the transfusion or whether any pre-transfusion  
12 medications had been ordered prior to administration of the blood.

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Gross Negligence/Incompetence)

15 14. Respondent is subject to disciplinary action under section 2761(a)(1) of the Code in  
16 that he acted with gross negligence and/or incompetence in carrying out usual certified or  
17 licensed nursing functions, as set forth above in paragraphs 11-13.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct)

20 15. Respondent is subject to disciplinary action under section 2761(a) of the Code in that  
21 he acted unprofessionally, as set forth above in paragraphs 11-13.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number 671177, issued to  
26 Victorino Cruz Samson, aka Victor Samson;

27  
28 <sup>1</sup> The identity of Patient 1 is withheld to protect patient privacy.



1           2.    Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of  
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3;

4           3.    Taking such other and further action as deemed necessary and proper.

5  
6 DATED:

August 7, 2012

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant